

**CITY OF MORGAN HILL  
JOINT REGULAR REDEVELOPMENT  
AND SPECIAL CITY COUNCIL MEETING  
MINUTES – OCTOBER 27, 2004**

**CALL TO ORDER**

Chairman/Mayor Kennedy called the special meeting to order at 6:00 p.m.

**ROLL CALL ATTENDANCE**

Present: Agency/Council Members Carr, Sellers, Tate and Chairperson/Mayor Kennedy  
Absent: Agency/Council Member Chang

**DECLARATION OF POSTING OF AGENDA**

Agency Secretary/City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

**RECOGNITIONS**

Mayor Kennedy presented outgoing Morgan Hill Library Community Librarian Nancy Howe with a Certificate of Recognition for her service to the citizens of Morgan Hill, and congratulated her on her promotion to the position of the Santa Clara County Library's Adult Services Librarian.

Chuck Dillmann presented Ms. Howe with a gift on behalf of the Morgan Hill Library Commission and members of the community and thanked her for all her dedication and efforts toward the library.

**CITY COUNCIL REPORTS**

Council Member Tate indicated that in September 2004 a Library Card outreach campaign was conducted to reach K-3 students in order to get them to sign up for library cards. Having a library booth at the Taste of Morgan Hill assisted this effort. He stated that as a result of these efforts, there were 604 new library cards issued. This results in 85% more library cards being issued from the same time period last year. He stated that Mervyn's campaign for the K-3 library card drive is continuing with a family oriented session to be held at the library on Wednesday nights. He recommended that members of the community participate in some of the family sessions that are starting this evening.

**OTHER REPORTS**

City Treasurer Roorda presented the Finance & Audit Committee Quarterly Report. He indicated that City revenues typically comes in slower in the beginning of the year and then builds up over the course of the year. He stated that the City will be seeing lower revenue numbers compared to its budget. He felt that revenues are comparable to what the City normally sees this time of year. He stated that there

were one time events that affected the sales tax area; the City receiving additional monies that had not been paid up to this point, bringing accounts up to date. He said that the City has received some significant revenues compared to budget in the aquatics area. With the seasonality of the aquatics center, he felt that the City would be seeing a lot of revenue in the front part of the year, toward the end of the summer, the first quarter and the fourth quarter. Revenues for the aquatics center will be much leaner as the city enters the second and third quarters. Therefore, the City is seeing what appears to be a nice boost in revenue for the aquatics center but that it is really compared to the linear budget being reviewed.

In the expense area, Mr. Roorda stated that they tend to be level out over the course of the year. He indicated that expenses are fairly comparable to budget although there are a couple of items that need consideration. He stated that there was a finance policy change in the legal area that brought forward some encumbrances to be recognized earlier than they had been in the past. He did not believe that there will be a cash impact from this policy change as it is accounting for the encumbrances a little differently. The City is linear but that the City has some expenses that came in from the aquatics and city attorney's office areas that have pushed expenses a little above budget. In looking at the general fund balance, the City is down a little from where it was at the beginning of the year at approximately \$10 million. He felt that the City was in a strong position, from a general fund perspective, and more than \$2 million ahead of where it is believed the City would end the year, depending on the City's cash flow.

Mr. Roorda addressed Proposition 1A that will be on the November 2004 ballot. He recommended that this proposition be made available at City Hall and at the library to allow individuals to study the details. He indicated that this is a proposition agreed upon by the Governor and the Legislature as a compromise. Passage of the proposition would provide some protection for cities like Morgan Hill and would afford more predictability in terms of the City's revenue streams because the State would not be in a position to come in and take substantial revenues from cities. He stated that the proposition has four main points: 1) protects the car tax revenue; 2) protects property tax revenue for the City; 3) contains a provision that if the State was in a financial stress situation, on a 2/3 vote the State could borrow. However, the proposition contains provisions that the State would have to pay the amount borrowed over a three year period with interest, resulting in the City recuperating the loan. 4) Protection of sales tax revenue and some relief, under certain circumstances, from State mandates for expenses that may not have been funded. He said that municipalities will be asked to make contributions and that the cost estimate for the City would be approximately \$350,000 per year for two years. He said that it needs to be noted that City will be getting back \$600,000 in car tax revenues from Fiscal Year 2003-04 that the City did not receive. From a planning perspective, he felt that the proposition would allow the City to better plan as a City and not have to wait to see what actions the State takes on its budget.

### **PUBLIC COMMENT**

Chairman/Mayor Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

Alex Kennett, Chamber of Commerce Board Member and outgoing Interim Executive Director, introduced recently hired Chamber of Commerce Executive Director Dan Ehrler.

Mr. Ehrler stated his appreciation for this opportunity to address the Council and that he looks forward to meeting with each Council Member and city staff. He also looks forward in working with the City and the community toward a continuing, excellent relationship with the Chamber of Commerce for a very productive and positive future.

No further comments were offered.

## ***Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:**        *On a motion by Agency Member Tate and seconded by Vice-chairman Sellers, the Agency Board, on a 4-0 vote with Agency Member Chang absent, **Approved** Consent Calendar Item 1 as follows:*

1.        **SEPTEMBER 2004 REDEVELOPMENT AGENCY FINANCE & INVESTMENT REPORT**

**Action:** ***Accepted** and **Filed** Report.*

## ***City Council Action***

### **CONSENT CALENDAR:**

Council Member Tate requested that item 2 and Council Member Carr requested that item 6 be removed from the Consent Calendar.

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** Consent Calendar Items 3-5 and 7-11, as follows:*

3.        **SEPTEMBER 2004 CITY OF MORGAN HILL FINANCE & INVESTMENT REPORT**

**Action:** ***Accepted** and **Filed** Report.*

4.        **PROFESSIONAL SERVICES AGREEMENT FOR FLOW MONITORING FOR TRUNK SEWER DESIGN**

**Action:** ***Approved** the Proposal from V & A Consultants for a Not-to-Exceed Fee of \$51,500 for Flow Monitoring and **Authorized** the City Manager to Execute a Professional Services Agreement on Behalf of the City, Subject to Review and Approval of the City Attorney.*

5.        **RESOLUTION SUPPORTING GRANT APPLICATION FOR ENVIRONMENTAL ENHANCEMENT AND MITIGATION FUNDS FOR BUTTERFIELD LINEAR PARK EXTENSION**

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**Action:** **Adopted** Resolution No. 5852, Supporting the Grant Application for the Butterfield Linear Park Extension Project for the Environmental and Enhancement Mitigation (EEMP) 2005-2006 Funding Cycle.

7. **AWARD JACKSON OAKS BOOSTER STATION REHABILITATION PROJECT**

**Action:** 1) **Appropriated** \$40,000 from the Current Year Unappropriated Water Fund Balance (653) into CIP Project Number 610093; 2) **Awarded** Contract to Trinet Construction, Inc. for the Construction of the Jackson Oaks Booster Station Rehabilitation Project in the Amount of \$1,026,025; and 3) **Authorized** Expenditure of Construction Contingency Funds not to Exceed \$102,602.

8. **YMCA FRIENDLY INN LEASE AND SENIOR CENTER OPERATOR CONSULTANT AGREEMENTS**

**Action:** **Authorized** the City Manager to Execute a Contract in the Amount of \$75,000 for the Operation of the Senior Center and Enter into a One Year Extension Lease with the YMCA of Santa Clara Valley for the use of the Friendly Inn.

9. **INTERIM USE PERMIT, UP: 04-07 DEPOT-DAYWORKER CENTER**

**Action:** **Adopted** Exit Plan by Minute Action.

10. **COMMUNITY & CULTURAL CENTER AND PLAYHOUSE PROPOSED CHANGES IN SELECTED RENTAL POLICIES AND RATES**

**Action:** **Directed** Staff to Incorporate the Proposed Changes to Non-Profit Rental Use, Rental Rates, and Policies as Outlined in the Staff Report.

11. **SPECIAL CITY COUNCIL MEETING MINUTES OF OCTOBER 13, 2004**

**Action:** **Approved** the Minutes as written.

2. **CONDUCT OF SPECIAL RUNOFF ELECTION IN THE EVENT OF A TIE VOTE(S)**

Council Member Tate stated that it was his understanding from the Council's discussion last week that a special runoff election would only apply to an elected seat that had more than two candidates running for office that resulted in two candidates receiving the highest and equal number of votes. He said that he sees a situation where there are only two candidates running for a particular office. If the seat ends up in a tie, the proposed resolution would bind the City to a special runoff election. He did not believe it made sense to build in a special runoff election when there are only two candidates seeking a particular seat. He stated that he would not be supporting the adoption of the resolution in any event but thought that the Council may want to revisit this aspect of the resolution.

Mayor Pro Tempore Sellers said that he continues to support the adoption of a resolution that spells out a special runoff election to be held in the event of a tie vote. However, he felt that Council Member Tate raised a good point. He felt that there would be a slim chance that there would be a tie between two council candidates running for office. He stated that he supports a runoff election when there are multiple candidates vying for a particular seat. However, if there are only two candidates seeking a seat

on the Council, it is obvious that the community is split. In this case, he felt that it would not make sense nor be fiscally prudent to have the same election over again. He inquired whether a change to the resolution could be made this evening. He recommended that the resolution state that in the event that only two candidates are running for an office that results in a tie, it would revert back to draw by lot.

City Attorney Leichter indicated that the resolution could so be amended.

**Action:**        *This item was **deferred** to later on the agenda to allow the City Attorney the opportunity to return with modified language to the resolution.*

## **6.     AWARD OF SIGNING AND STRIPING FOR CLASS II BIKEWAYS PROJECT**

Council Member Carr noted that the City is looking at north/south bound Class II bike lanes on Monterey Road to Burnett Avenue. He inquired whether staff was aware of all the work that would take place to improve and widen Burnett Avenue by the School District for Sobrato High School. He wanted to make sure that the remainder of the improvements to the corridor are completed so that students wishing to ride their bicycles to the High School can do so.

Director of Public Works Ashcraft said that he knows that the roadway was widened to accommodate four travel lanes; parking to be allowed on one side of the road and not on the other side. He does not recall whether bike lanes are or will be included on Burnett Road. Therefore, he would have to report back to the Council in this matter.

Council Member Carr recommended that staff agendaize this item for the City-School Liaison Committee meeting in order to inform the School District as to what the City is doing on bike lanes leading up to the High School. The City can ask the School District how they can help to make sure that the bike lane project is completed all the way to the High School.

**Action:**        *On a motion by Council Member Carr and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Chang absent: 1) **Awarded** Contract to Linear Options Inc. for the Construction of the Signing and Striping for Class II Bikeways Project In The Amount Of \$52,230; 2) **Authorized** Expenditure Of Construction Contingency Funds Not To Exceed \$5,223; and 3) **Appropriated** \$40,000 From The Current Year Un-Appropriated Street Fund (202) Balance To Cover Non-Grant Related Costs Associated With This Project.*

Council Member Tate recommended that the Council consider item 14 at this time as there are several individuals in attendance who may wish to address the Council.

**Action:**        *It was the consensus of the City Council/Redevelopment Agency Board to **consider** item 14 at this time.*

## ***City Council Action***

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**PUBLIC HEARINGS:**

**14. REQUEST TO APPROVE THE ISSUANCE OF TAX-EXEMPT REVENUE BONDS BY THE INDEPENDENT CITIES LEASE FINANCE AUTHORITY (ICLFA) ON BEHALF OF MILLENNIUM HOUSING – Resolution No. 5853**

Director of Business Assistance and Housing Services Toy presented the staff report, indicating that Millennium Housing is a non profit housing corporation that currently has a purchase agreement with the owner to purchase the Hacienda Mobile Home Park. He stated that approximately 74% of the park residents have voted to support the purchase. He indicated that the benefits of purchasing the Park are that it would eliminate uncertainty of future rent increases and gives the park residents the opportunity to comment on the ownership and management of the park. It also provides an opportunity for the residents to purchase the park in the future. He informed the Council that Millennium Housing is requesting the City's Finance Authority to issue \$12 million in tax exempt bonds to acquire the Hacienda Mobile Home Park. He noted that the City would not assume any obligations or liabilities through this process nor will it assume any liabilities or obligations for tax exempt bonds to be issued by ICLFA. He indicated that it has been brought to staff's attention that some residents have expressed concern about the speed of the process as well as the information provided by Millennium Housing and the Park's Board regarding the process. He noted that Millennium Housing has indicated that they are more than willing to continue to meet with the residents and provide more information in writing about how the transaction would work. He informed the Council that the action before it is one of two key steps necessary to obtain financing. He informed the Council that staff and Millennium Housing are recommending that the Council approve the issuance of the bonds as it keeps the flexibility open and affords the ability to sell the bonds in November, avoiding any potential increases to bond rates. He indicated that the purchase agreement expires in January 2005. He noted that the second key step is to return to the Agency for a loan agreement in the amount of \$1.2 million next week. The second action would create a rental assistance fund for the residents of the Park with the concept of keeping rent increases to a maximum of \$40 per month per year.

George Turk indicated that Millennium Housing is a non profit organization who owns approximately 3,500 mobile home spaces throughout the State. He informed the Council that earlier today Independent Cities approved the bond transaction, subject to the public hearing and Council approval. In order to alleviate the impacts on rent, the Council will be asked to approve a loan agreement. He stated that after long negotiations, Millennium Housing is in escrow to purchase the Park. He has held two meetings at the Hacienda Mobile Home Park where all residents were invited, indicating that the meetings were well attended. He has also met with the Hacienda Mobile Home Park association board. He has sent 3-4 update letters to all park residents, inviting them to respond. He felt that he has tried his best to communicate with all residents.

Mr. Turk addressed the positives to purchasing the Park as follows: 1) an opportunity to preserve one of the City's affordable communities; 2) all litigation matters would be dropped and would not be refilled; 3) would agree to follow the City's Mobile Home Rent Stabilization Ordinance, even if it is repealed or overturned by another park owner suing the City or another decision is made elsewhere; 4) agrees to maintain the park as a senior park; 5) expects a lot of resident input; 6) at the annual adoption of the

budget, Millennium Housing will sit down with Park representatives to look at possible changes to the rules of the Park; 7) the homeowners board to advise how any surplus funds are to be spent; and 8) starting with approximately \$300,000-\$400,000 in a capital improvement fund.

Mr. Turk address the negatives to purchasing the Park as follows: 1) This is a “settlement” as the park owners believe that they can charge substantially more than what is being paid in rent, however, this action is a compromise; 2) in order to make the project work, there needs to be a one time increase in rents of approximately \$580-\$590 per month. He indicated that this fee would be a reduction to some individuals but for most of the Park residents, it would be a large increase. He stated that the City is considering a loan to Millennium Housing in the amount of \$1.2 million which will allow for the establishment of a rental assistance fund. This will result in most individuals having to pay \$30-\$35 in rent increase the first year. He did not believe that the increase would be more than this amount in subsequent years. The rest of the money would come from a rental fund. He felt that this is a great insurance policy to stay off what might have happened should the City not prevail in the lawsuit. He understands that an increase would be a hardship, and therefore, if anyone cannot afford the increase, further subsidies will be made available. He said that in the last draft agreement with the Redevelopment Agency, Millennium Housing has committed not to evict individuals from the park because of increases attributed to the purchase of the Park.

Mr. Turk indicated that some individuals in the park have a desire to purchase the park directly. He indicated that he has been advised by the current owners’ attorney that the park owners will not sell to the residents under any circumstances. He indicated that the Park is owned by an investment group consisting of 3-4 individuals who have indicated that this is the only deal that they could agree upon. The property owners do not want to deal with 166 individuals, all trying to qualify for loans that may or may not see eye to eye. He has been told that the owners would agree to sell to a non profit, another investor or continue with the lawsuit. He informed the Council that Millennium Housing has agreed that for the next 10 years, the homeowners will have the option/ability to purchase the park from Millennium Housing for not much more than what it has put into the purchase of the Park. Assuming that real estate in Morgan Hill continues to appreciate, he expects that the homeowners will see the value in purchasing the park in 8-10 years. Millennium Housing sees this as an interim step while the residents get a chance to learn how to operate the park.

Mr. Toy said that 74% of the residents voted on this issue. This results in 30 out of the 160+ residents not voting on the matter.

Mayor Pro Tempore Sellers noted that there is a second item equally as important associated with the purchase of the Park that will be before the Agency next week. He inquired whether there would be a problem with deferring next week’s item in order to allow a revote on the matter.

Mr. Turk said that this transaction is very interest rate sensitive and that the better financing Millennium Housing can get, the lower the rental rates will be. He indicated that this is a great time to be selling bonds. He noted that approximately two-thirds of the park supported the purchase of the Park by Millennium Housing and that he did not believe that a lot would change with a revote. The Council/Agency may hear this evening from some of the residents that the election process has not been

pleasant and that the City would be putting them through this unpleasant situation again. He could not state that a seven day delay would kill the purchase of the Park.

Council Member Tate inquired why action was needed this evening and why both actions could not be undertaken at the same time.

Mr. Toy responded that taking action this evening would allow Millennium Housing to proceed with bonding.

Mr. Turk indicated that there are four pieces to the purchasing the Hacienda Mobile Home Park: 1) The City joined a Joint Powers Authority last week; 2) The Joint Powers Authority authorized conditional approval to move forward with the bond issue earlier today; 3) if the Council approves the TEFRE hearing/public hearing, Millennium Housing can move forward with printing the perspective, completing the bond documents; 4) Millennium Housing can be using the seven days to try and compress the process. He indicated that Millennium Housing could not proceed without the loan because the Board would not support a rent increase. He felt that City approval this evening would demonstrate a good faith effort and show that the deal is moving along. He said that 120 residents have returned income survey forms which he perceives as support. In looking at the incomes, he did not believe that Millennium Housing would proceed without the loan.

Mayor Kennedy requested that the City Attorney present a status of the lawsuit by the park owners.

City Attorney Leichter stated that there are two lawsuits: one pending in the United States Supreme Court and one in the Santa Clara County Superior Court. She said that it was her understanding that a condition of the sale would result in both lawsuits against the City being dismissed. Both court actions have been stayed until the third week in December to determine the outcome of the purchase.

Chairman/Mayor Kennedy opened the public hearing.

Don R. Costello stated that most of the residents found out about the sale of the Park about a month ago via a flyer. A meeting was held with Mr. Liegl with several individuals presenting their ideas on the sale/purchase of the Park. However, he felt that the sale was moving too quickly and that residents were not given enough time to evaluate options. He said that the meeting held by Mr. Turk, facilitated by Mr. Liegl, with Mayor Kennedy in attendance, was one that he felt individuals were being “steamrolled over.” He said that the residents do not understand what is taking place and felt that they were being intimidated and confused. When it came to the vote, everyone wanted to protect the voting process and the ballot box. He indicated that Mr. Liegl took the ballot box home and counted all the votes. The residents believe that the City was working on the park for 2-3 years without letting the residents know what was taking place. He felt that residents have options, one being to allow the residents to purchase the park. The residents talked to the attorney who assisted with the Woodland Mobile Home Park who stated that he would assist the residents with the purchase of the park. Residents do not agree that the owners would not want to sell to the residents because they have received other information. He indicated that the residents do not believe that they can gain the right information through the homeowners association because it is felt that it is run by a tight group of people. Before the vote was



taken, residents had to move fast, calling 50-60 individuals who would be voting no. He felt that the votes may have been counted wrong or residents were afraid to vote no. In talking to residents following the vote, many indicated that they did not understand what they were voting for and that they were afraid. He requested that the Council provide time in order to get the truth and facts out to the residents; advising whether there were other options.

Richard Helme stated that he voted for the sale of the Park to Millennium Housing because he felt assured that affordable housing and a well managed/maintained park would continue. He indicated that no one contested the vote at the end of the vote count. He felt that the validity of the vote is good. Because of the City's long time support for mobile home park residents and its support of the sale, including the investment of the \$1.2 million to make the purchase possible and rents affordable, he wanted the Council to know that many of the residents appreciate what it is doing. He thanked the Council for helping the residents protect their investments.

Charles Martin stated that he concurred with the comments as expressed by Mr. Costello. He requested that the Council place a 60-day moratorium on the bond issue. He felt that the moratorium would give the residents enough time to investigate all possible options. He inquired whether the City would support a one time \$40 month increase. He stated that the park residents could look at ways of purchasing the park, allowing everyone to see the pros and cons of the situation.

Joyce Sims stated that once the process is all said and done, the rents will increase to approximately \$600 per month. This amount would not include utilities, raising the rents to approximately \$800 per month. She felt that it would be difficult for a senior citizen with a fixed income to move into the park and that selling the park would be closing the doors to senior citizens who want to move to Morgan Hill. She did not believe that individuals would want to move to a mobile home park where the mobile homes are 30 years old, some falling apart. She felt that it was true that residents did not receive all the information that would allow individuals to make an intelligent vote. She said that Mayor Kennedy showed up at the first meeting, endorsing the purchase. She felt that his attendance swayed a lot of residents in the park to support the purchase.

Keith Cram stated that as a tax payer, he objects to the idea of a corporation worth \$300 million coming into Morgan Hill and receiving a loan so that they can increase the value of their investment. He felt that Millennium Housing would be the landlord and that they would be powerful enough to develop the bylaws. This company is coming in, placing no money down while getting the City to provide \$1.2 million in seed money to help them purchase a piece of property that is appraised at \$6.7 and issuing \$13 million in bonds. Based on these numbers, it was his belief that Millennium Housing would be paying the Park owner \$10.3 million. This results in Millennium Housing making \$3 million at the beginning. It was his belief that there were better places for residents' tax money to be used versus allowing a non local corporation to come in and use the City to guarantee bonds. He requested that this item be continued as he did not believe that taxpayers' money was being used properly.

Darlene Harmon read into a record a prepared statement. She stated that on or about September 14, 2004, a meeting was held in the Hacienda Clubhouse to announce the sale of the Park. John Liegl, Mayor Kennedy and George Turk announced the sale. Residents were told that the sale/purchase was

the best thing for them and that they should feel lucky that so many cared about their welfare. She felt that Mr. Turk enlightened the residents of the great things that would happen when they purchased the park, later to threaten and intimidate residents as to what would happen if the Park was purchased by someone who might raise the rents to \$1,500. She did not understand why the City did not allow the owners to raise the rent a little. She inquired whether the City's rent control prohibited the rental increase. It is her understanding that there would be no rent control with Millennium Housing until the cap is reached. If so, she inquired whether this is in writing somewhere or contained in a contract. She did not know why John Liegl, President of the homeowners association and Chairman of the Mobile Home Rent Commission, was enthusiastic about the sale of the Park. She did not understand why so many individuals were convinced that this is a better way to pay hundreds of dollars more a month rather than \$40 more a month to the owner. She felt that this was a hostile take over. She did not know why Millennium Housing was receiving \$13 million from the City when the sale price for the Park is \$10.2 million of which \$200,000 will be going to George Turk for the sale of the Park. This leaves \$2.8 million. It is being stated that \$1.2 million will be set aside to assist individuals who cannot afford the increased rent. She stated that when all is said and done, Millennium Housing will give the residents a chance to purchase the park for \$15-\$16 million after the residents pay off the \$13 million to the City. She indicated that prior to the voting that took place on October 20, 2004, a mobile home park resident contacted 100 individuals and encouraged them to vote yes because the purchase was in their best interest. She questioned the integrity of the ballot process.

Ed Carr stated that rent control has been a blessing. He said that there are other communities who do not have rent control and that there are many horror stories out there. Regarding the multi million dollar purchase, he stated that many of the residents are not equipped to deal with the purchase. He confirmed that a meeting was held in October where over 100 residents were in attendance. He indicated that there was over 90% approval for the purchase of the Park after Mr. Turk explained the reason for the vote. A ballot was sent out to every park space to vote, resulting in over 75% approval of the purchase. He said that while it is true that there will be some individuals who will experience a substantial rent increase, others are concerned about the alternatives without rent control. Should a private investor decide to purchase the park, they would have to increase the rent to help pay off the debt. This may result in rents being higher. He thanked the City for fighting rent increases for 15 years. He noted that the lawsuit does not seem to want to go away. It was his belief that what Mr. Turk is offering the best option the residents have at this time.

No further comments were offered.

Mr. Toy clarified that the City is not assuming any liability or guaranteeing the bonds. The bond issue is for \$12 million. He stated that the acquisition price is \$10.2 million. The bond holder will require that you reserve one year's worth of debt service of approximately \$800,000. There is another \$300,000 that will be placed in a capital reserve and maintenance fund. There will be another \$100,000 to be placed in a working capital fund and an underwriting fee. He indicated that all fees add up \$12 million. He stated that this money goes to the trust to be placed in different accounts to be used for specific purposes by contract. He said that the Millennium Housing bond contract states how the funds and proceeds are to be used and that the rental proceeds from the Park will be used to pay debt service and operating costs, etc. He said that the City's Agency agreement will stipulate that for 55 years, Millennium Housing will

have to follow the requirements of the agreement (e.g., rents have to remain affordable). He said that once rents get up to \$580-590 per month, the rent can only go up by what is allowed by the City's current rent ordinance whether it exists at that time or not. He clarified that the \$1.2 million will go into a trust account to be used to help subsidize the rent. He identified the other key provisions as follows: 1) residents association will be given the opportunity to purchase the park during the lifetime of the transaction; 2) there is a fixed purchase price in the first 10 year period and after the 10 year period, the purchase price would be the fixed price plus CPI. 3) Upon the repayment of the bonds, the Agency loan would be required to be repaid at an accrued interest rate of 3% simple interest. However, the interest rate is deferred with no payments being made after this time period. He indicated that during the course of the litigation, City contact was made via the attorney for the residents' association board regarding the purchase of the Park, \$30 rent increase, etc. He indicated that Millennium Housing held a couple of meetings with the residents in order to provide additional information. It was his understanding that the purchase agreement between Millennium Housing and the park owners will expire at the beginning of January 2005. There is no indication that the park owner would be willing to extend this period. He stated that there would be restrictions governing a series of actions Millennium Housing would be required to meet with the residents at least twice a year, share the budget and allow residents the opportunity to comment on the operations/maintenance of the park and how funds are to be used.

Council Member Tate noted that Mr. Toy presented a 2 minute overview of what is being considered. He felt that this presentation needs to be lengthened and detailed to the residents, pointing to the agreement where assurances are made so that residents can begin to feel comfortable with the vote. He inquired how staff would suggest that this detailed discussion be conducted.

Mr. Toy indicated that Millennium Housing could hold additional meetings and that staff could be present to go through in detail what is being proposed, including the restrictions and requirements for the transaction.

Mayor Pro Tempore Sellers inquired as to the impacts to new residents and whether there would be precipitous increase in rents.

Mr. Toy said that at close of escrow, any new residents moving into the park would be subject to the new rent increase and would not be eligible for the subsidy.

Mayor Pro Tempore Sellers stated that the reason the City is proceeding with this process is to maintain an affordable mobile home park. He did not know whether the affordability would be reduced every year. He did not know if staff has looked at the affordability as new residents would be moving into the park and paying \$590 per month with CPI increases being factored in every year. He felt that the City needs to look into this concern prior to next week.

Mr. Turk said that as far as the rents are concerned \$590 per month is not high for Santa Clara County rents. If you go by what the Federal government thinks, a low income individual in Santa Clara County can supposedly afford to pay triple this amount. He indicated that the current average rent is in the mid \$360s which is extremely low in California. He clarified that he is not receiving a fee for the purchase but that the Millennium Corporation will be receiving a fee. He noted that \$1.2 million of the \$3 million

will go toward the rental assistance fund with another \$1 million going toward the bond reserve and another \$400,000-\$500,000 toward the capital improvement fund. He stated that Millennium Housing does not receive the rent. Every dollar is held by the bond trust and that Millennium Housing does not touch any of the bonds. Rents go directly to the management company who pay the bills. He said that he would agree to request that the attorney of the owners draft a letter stating that they will not extend the sale nor sell the Park to the residents. In order to move their lawsuit forward, they have to keep within the court timelines. He said that a substantial cost of the lawsuit is being paid for by the Pacific Legal Foundation, a property rights none profit organization. He stated that that the entire state is looking at this as a test case because if the Pacific Legal Foundation wins the lawsuit, there would be no rent control in California. He informed the Council that in the City of Cotati, the park owners' case will be heard by the Ninth Circuit that on its face seems to indicate that rent control is in serious jeopardy in California. He indicated that there was never a \$40 deal on the table as this offer was proposed by the homeowners and was not accepted by the park owners.

Mayor Pro Tempore Sellers said that he has no doubt that Millennium Housing will have no problems filling the mobile home park spaces. In inquired whether trying to make things better will be creating a situation, in the long term of diminishing affordability at the park.

Mr. Turk stated that in the agreement, Millennium Housing is specifying that the Park will always be occupied by 75% of individuals who are low or very low income. This, in itself, imposes where they can take the rents. If Millennium Housing can operate the park without increases, they would.

Council Member Carr noted that Mr. Turk stated that there would be an agreement for a 10 year period to allow the park residents the opportunity to purchase the park from Millennium Housing's investment only. He inquired whether the investment was the \$12 million bond sale or the \$10+ million cost of the park.

Mr. Turk said that Millennium Housing would agree to sell the park for the initial bond cost of \$12 million plus the City Agency loan if \$1.2 million. However, it will be up to the Agency to decide whether it wants its money to be repaid. He stated that it is illegal to sell property to a non profit for less than its value, thus the reason for the 10-year term. He said that during the 10-year period, the equity of the property would increase and that it could be the residents' down payment.

Council Member Carr noted that it was stated that the average rent being paid today is at \$363.50. He indicated that the City's rent control takes affect when the rent reaches \$590. He noted that the difference between \$360 and \$590 is where the City's loan would come in to subsidize rents. He did not expect that anyone's rent would increase from \$360 to \$590 over night.

Mr. Turk clarified that rents would go up \$30-\$35 dollars. He indicated that Millennium Housing is starting with \$300,000+ in a working capital fund. They are projecting approximately \$900,000 in surplus funds to be held by the trust over the next 10 years. Over a 10 year period, it is expected to generate \$1-\$3 million in cash with a lot of these funds going toward upgrading the park and leaving some in reserves for future capital improvements and toward the rental assistance fund in order to keep it healthy.

City Attorney Leichter said that all items being stated by Millennium Housing are conditions of the agreement with the Redevelopment Agency. She stated that the City has been in contact with the Mobile Home Park Association Board over the past 3-4 years with regards to various scenarios of purchasing the park by the residents, rent increases, etc. Speaking to the \$40 a month increase, she stated that at the rent control hearing held over 3 years ago, the park owners asked for over \$200 a month in rent increases. They were proposing a substantial rent increase over a period of years. Historically, this would indicate to her that they would not find the one time \$40 a month rent increase as being acceptable. Staff discussed the one time rent increase at one point and that it was rejected. The \$6.7 million appraisal assumes there is rent control and that when you have rent control in place; the park is not as valuable. The park owners, on the other hand, feel that rent control is illegal and that they are getting a better shot by having it declared illegal. If there is no rent control, the price of the park is worth more than the purchase price that Millennium Housing has attached to it under the park owners' appraisals. The park owners believe that the \$10.2 million bond is well below what the park is worth without rent control. She did not believe that the park owners would come down that much off their fixed value of the park. She addressed the legal risks and pending court cases. If the City loses at the United States Supreme Court, it will jeopardize rent control in this country. If this happens, the impact to the City would be that it would be liable for \$1-\$2 million in damages and that there would no longer be rent control in the Park. This is the risk with continuing with the litigation. She indicated that the litigation has been between the City and the park owners and have involved settlement negotiations. She stated that from time to time, the City worked with Bruce Stanton, the attorney for the homeowners association and that the homeowners association board was informed of the various scenarios to determine whether they were acceptable. She was not aware whether the homeowners association board passed the scenarios onto the residents. The homeowners association board may have maintained the confidentiality of the settlement negotiations.

Mayor Kennedy stated that the City tried to get the information to the residents as quickly as possible without jeopardizing the legal actions the City is involved in.

Mayor Pro Tempore Sellers inquired whether the board members were every instructed that this was a confidential situation. He felt that if the homeowners association board was brought into the discussion, the information provided to them was not confidential.

City Attorney Leichter indicated that she did not believe that the information provided to the board was confidential because it would have been disclosure to a third party. It was agreed to between the plaintiffs and the City to disclose some information.

Mayor Pro Tempore Sellers said that there has been discussions that the rental costs will vary by individuals with some paying \$360 while others paying \$590, varying in amounts. He inquired whether park residents have been made aware of what they might expect to pay should the sale go through.

Mr. Turk said that rents at this time go from the high \$200s to \$640. He said that eventually everyone will be paying the same rent. He said that Millennium Housing has been collecting an income survey. He indicated that rent increases would not go into affect until next year. Therefore, Millennium Housing

will have 60-days to invite individuals to apply for rental assistance. He noted that the park has 166 different rents being paid at this time. He said that in the worst case scenario, there would be a \$30-40 per month increase.

In response to Council Member Carr's question, Mr. Toy indicated that the agreement stipulates a rent increase of \$40 per month per year. Households with hardships can apply for additional subsidies. He indicated that there is a maximum rent increase of \$590 per month.

Mayor Pro Tempore Sellers felt that exists today is a failure to communicate. He felt that the City was well intentioned in its effort and staff conducted a lot of work to get to this point. He also felt that Millennium Housing was well intentioned. As a non profit, their goal is to try to improve a situation where legal issues exist that are pending that may make the situation worse in the near future if the City is unable to move forward. However, he felt that there was still a lot of discomfort over this issue as there are questions that remain unanswered to the satisfaction of some of the residents. There are also concerns raised by the residents that are not getting answered in a way that is making them feel comfortable. He stated that he was inclined to proceed this evening as this would be step one of a two step process. He strongly urged the individuals involved, Millennium Housing and staff to go back and communicate with the residents, on an individual level if necessary. He urged communication to take place within the next week so that individuals can make an informed decision.

Mayor Kennedy indicated that he was invited by the Mobile Home Park homeowners association president John Liegl to attend a meeting in an effort to communicate and keep the dialogue open. He did not believe that it was a failure to communicate. He understands that there are a lot of differences of opinion on whether this is the right solution. He indicated that the City has a rent control ordinance in place that controls mobile park rents throughout the City and that the City has an obligation to protect the ordinance. He noted that it was stated that the City is facing a lawsuit that is at the Supreme Court that will have implications for the entire country, a decision that will be important to all. He felt that this is the best decision that can be attained. He was pleased that the City has Millennium Housing on board. He stated that in his comment that Mr. Liegl is doing a good job as the homeowners associations' president, he was referring to the fact that he has devoted a lot of his personal time and attention to represent and resolve the issues for the homeowners. He felt that it was unfair to attack Mr. Liegl. He encouraged the Council to move forward with this action. In the meantime, have City staff and Mr. Turk meet with the residents who still have objections, answering any remaining questions that exist.

Council Member Tate stated that he has no problem moving forward with the action before the Council this evening because without step two, the action would not mean anything. He felt that there were still questions that need to be answered. He has heard that some residents feel that they were facing a steamroller and that they need a couple of months to move forward. However, Millennium Housing is stating that they need to move quickly as the interest rates are good at this time and want to take advantage of the interest rates. He inquired whether a one week period would be enough time to answer questions.

Council Member Carr indicated that several Council members have been contacted by residents on this issue. He said that the Council has struggled over this issue for some time, including protecting rent

control of the mobile home parks in the City of Morgan Hill. He apologized for taking so long for this issue to become public, noting that there were legal implications associated with this matter. He understood Mr. Turk to state that the purchase teeters on the interest rates. However, he was uncomfortable with the comments he has heard at the podium and the comments expressed individually about the concerns associated with the voting process and the lack of understanding of the agreement. He stated that the responses to questions by City staff and Mr. Turk have helped to answer his questions. However, he felt that the City needs to create a way to get the questions answered for the residents before the Redevelopment Agency is asked to approve the loan agreement. He would hate to have the loan agreement come back to the Council and not have gone through a number of steps to try to explain and answer the questions related to the sale of the Park. He did not believe that anyone was suggesting that there was anything illegal/improper done with the vote. However, if there is even one voter questioning the validity of the vote, individuals need to think about the process. He indicated that one of the suggestions offered by City staff is that a neutral third party administrator be brought in to talk about this issue (e.g., Project Sentinel). He inquired what can transpire in a week's time to reach out to the Park residents, ensuring that there is an opportunity for all questions to be answered, including staff's involvement in explaining the agreement and where the protection lies within the agreement.

Mr. Turk felt that seven days was enough time to conduct another meeting. He would be willing to meet on Friday, Monday or Tuesday prior to next Wednesday's Council meeting. He was not opposed to a third party overseeing an election. He felt that there may be 30 residents who do not like the concept and that he would like to meet with them to show them that he is not receiving \$200,000 from the purchase and that he can show where the \$3 million is going. He said that if the Council is more comfortable in deferring the resolution to the next meeting, he would support that action as well.

City Attorney Leichter noted that the public hearing was closed unless the Council elected to reopen the public hearing. Unless there was new evidence or testimony that was submitted that was not heard this evening, the public hearing would remain closed.

Mr. Toy noted that the public hearing was closed this evening. The Council could continue the item to be considered with the loan agreement and that meetings could be held with the residents early next week. He indicated that staff would have to present an oral report of the results of the meeting(s) at next week's Council meeting.

Council Member Tate stated that he is willing to move forward with this item this evening as there is another item scheduled for next week's Council meeting necessary to move forward.

Council Member Carr said that he was not sure that the Council was suggesting that this item not move forward this evening. However, it needs to be understood that by moving forward this evening, the Council is not rubber stamping the next process. At next week's meeting, the Council will be expecting to hear answers/results of meeting with the residents.

Council Member Tate noted that the resolution stipulates a \$13 and \$12 million bond. He recommended that the resolution be modified to stipulate \$12 million.

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**Action:**        *Council Member Tate made a motion, seconded by Council Member Carr, to **Adopt** Resolution No. 5853, amending the resolution to stipulate a \$12 million bond.*

Mayor Pro Tempore Sellers felt that a drop in session with Mr. Turk would be productive. This would afford residents an opportunity to meet individually with Mr. Turk and staff, having individual concerns addressed and not feel pressured that might be experienced in a group meeting. He wanted to make sure that concerns are addressed before proceeding with the next action item.

Mr. Turk requested that the resolution reflect \$12.5 million.

City Manager Tewes clarified that the resolution that the Council would be adopting would be one that would allow for a maximum bond size. He indicated that from time to time, staff requests that the Council approve a maximum amount to reflect changes that may occur between the initial understanding of the agreement and possible change in interest rates. He felt that it is the intent to have a bond issue of \$12 million. Mr. Turk is requesting more flexibility, thus the reason for the \$13 million. He clarified that the deal would only be financed at the level paid by Millennium Housing Program.

**Action:**        *On a motion by Council Member Tate, seconded by Council Member Carr, the motion was **amended** to reflect a \$12.5 million bond. The motion carried 4-0 with Council Member Chang absent.*

## **OTHER BUSINESS:**

### **12.    MORGAN HILL LIBRARY ALTERNATE PROJECT DELIVERY MODEL**

City Manager Tewes presented the staff report, stating that it was many months ago when a subcommittee of the City Council made a recommendation for how the City might finance the construction of a 28,000 square foot library in the event that the City's application for State grant monies was not successful. At that time, the Council determined that it would be appropriate to redirect resources that had previously been allocated for flood protection in Morgan Hill to the library project. Staff presented the Council with a series of financing steps that could lead to the construction of the 28,000 square foot library facility, estimated at a cost of \$16.6 million. It was suggested that the budget be increased by another \$400,000 to make it a round \$17 million project. He stated that the financing of this project requires the reallocation of resources from flood control and an increase in development impact fees previously approved by the Council and a series of other measures that would allow the project to proceed. At that time, the City anticipated that the State would have made a decision on the City's application for State funding by the end of October. Therefore, the Council directed that staff return on October 27 with a report on how to proceed. The Council subcommittee also directed staff to analyze a different approach to how the City would manage project construction. He informed the Council that Jim Dumas, City project manager, would present a report and discuss the alternative project delivery model. Recreation and Community Services Manager Spier would comment on the status of the State grant application. He noted that there are a series of recommendations and requests from the Library Commission and the Friends of the Library on a subsequent matter.



Project Manager Dumas addressed the differences between the multiple prime project management model that could save cost overruns by managing the design process with tighter controls versus the traditional construction management method, including the benefits and drawbacks/risks associated with both models. Should the Council prefer the multiple prime model, the next step would be to write a request for qualifications for a builder/construction management firm for the library. He indicated that the types of projects that lend themselves to the multiple prime model approach are projects that have many subcontractors such as the schools, libraries, City of San Jose City Hall, etc. These are projects with multiple subcontractors. He stated that the role of the City would remain the same regardless of the model used. However, the role of the construction management firm would intensify as they are acting as the construction manager as well as the site supervisor. City staff would have an increased level in processing payments every month. Staff will facilitate financial administration consequences. He indicated that the construction manager provides full time supervision at the site. They also provide a project manager in their office. They organize and supervise the subcontractors; fielding any questions. He felt that the involvement of public works and himself will be at about the same level. Staff's involvement would increase should the Council chose to accelerate the schedule.

Mayor Pro Tempore Sellers inquired whether the City is prepared, at a staff level, to take on additional work, especially in these lean budget times. He stated that one of the biggest challenges faced with the community and aquatics centers was the involvement of the Council. He felt that the Council was sometimes too involved, and in some occasions, not as involved as it should have been. He inquired how the Council's role would shift with the multiple prime model.

City Manager Tewes did not believe that the multiple prime approach would necessitate a different role for the Council. Decisions would remain with the Council to the extent that it wants to be involved at the various stages of the design process. The Council has reviewed schematic drawings and construction drawings at various stages with some projects. He felt that this project has the potential of becoming complex under the multiple prime approach with the different bid packages and/or fast tracking the project. The Council would also be seeing bits and pieces of the project versus viewing it comprehensively as has been the Council's past practice. With respect to staffing, he stated that the City would clearly have extraordinary legal and administrative costs associated with more contracts. There are also insurance and bonding requirements that require conversations that will increase to the extent that the City has to deal with multiple contractors. He did not believe that processing of payments should be an administrative burden because one of the functions of the builder construction management is to ensure that payments are due and payable, presenting them to the City for payment. He felt that the legal/administrative review can be minimized to the extent that the City is willing to stick to its standard contract, including insurance requirements.

Recreation and Community Services Manager Spier indicated that the City is looking forward to the results of the third cycle of the State library bond. She stated that the City should hear about the results of the bond on November 29. She said that traditionally, the State has provided City staff with an agenda about a week prior with ratings. Staff will have a good idea on how it rated and whether the City stands a chance to be awarded a grant. She stated that Senate Bill 1161 was signed by the Governor and that it will be on the ballot in June 2006. She indicated that one of the premises of this bill is that those agencies that are not funded in round three will have priority funding for the \$300 million. She informed

the Council that the City's application would be as submitted with a 40,000 square foot library project. She addressed the operational readiness of a 28,000 or 40,000 square foot library. It is anticipated that the library will be at the operational level that it is today with a potential that it may be cut if the benefit assessment is not approved by the voters. Staff is recommending that the City wait the 30 days and receive the results of the cycle three library bond. Should the Council decide to ask staff to look at the multiple prime, staff could be performing work toward this model. This would not result in time being wasted. Staff would return to the Council reporting how the City rated and whether the City received funds.

Mayor Kennedy opened the floor to public comment.

Carol O'Hare, incoming president of the Friends of the Morgan Hill Library, requested that the Council review the resolution that was adopted by the Friends of the Morgan Hill Library as attached to agenda item 13 before taking action. She noted that the existing library is more than 30 years old and that the City has been talking about a new library for nearly 10 years. The Friends of the Morgan Hill Library believe that it is in the best interest of the community to begin the construction project immediately so that a new library is built as soon as possible and to ensure that construction costs do not escalate. She did not believe that there were any circumstances that justified waiting for the 2006 library bond and that there is no reasonable expectation of receiving funding from the third round of the current library bond. She stated that the Friends of the Morgan Hill Library are requesting that the Council authorize the library construction project to move forward immediately and not wait 30-days.

Barbara Palmer, member of the Morgan Hill Branch of the American Association of University Women (AAUW), indicated that she is speaking on behalf of the 123 members. She stated her support of the Friends of the Library resolution. AAUW is committed to education and life long learning and believe that the library is the intellectual heart of the community. It is known that the current library building is inadequate and has been so for many years. She felt that it was time to proceed with the construction of a new library without further delay as the citizens of Morgan Hill have waited long enough.

Charles Cameron stated that he is anxious to see a new library proceed. However, he would not object to waiting until November 29 to hear the results of Proposition 14 funding. He requested that the Council proceed as soon as possible with the construction of a new library.

Marie Lamb concurred with the prior speakers and that she would like to see the library project move forward without delay. She felt that three years has been a long time and that in that time period, the cost of the library has gone up tremendously.

Mayor Kennedy stated that should the Council proceed with the action as listed on the agenda this evening; the City can do a lot without delaying the project and still hear what will happen with the library bond application on November 29. It was his understanding that the City could still proceed with the action because the City has to select the construction manager and prepare an RFQ which will take time to do. It appears that there was a way that the City could do both.

Enar Anderson indicated that the City/community has waited for a library for a long time and expressed concern with further delays. He said that there may be a possibility that the new bond measure may not pass. He felt that it was important to move forward with the library project as soon as possible while funds exist.

No further comments were offered.

City Manager Tewes said that should the Council adopt the alternate project model, the Council could authorize staff to prepare the request for qualifications and begin the process of selecting the construction management firm. This would accelerate the process. Within 30 days, the City would not have entered into costly contracts that the City would want to try to get out of should the State agree to pay for two-thirds of the cost for the library.

Council Member Tate stated his support of staff's recommended action and further recommended that the Council state that it prefers the multiple prime approach.

Council Member Carr wanted to make sure that the Council was not confusing anyone by authorizing staff to wait until the results of the State library bond was received. Should the Council agree to approve the multiple prime approach, it should be stipulated that staff is to proceed with this process.

Mayor Pro Tempore Sellers felt that it would be imperative that the Council keep an eye on this and be cognizant of any proposed changes, including any added impacts to City staff. He recommended that this be a topic to be considered at the Council's retreat as well as in its budget discussions. He felt that it made sense for the City to move forward with the library project and not wait until November 29 because the little work that will be accomplished between now and November 29 would not jeopardize any of the City's options. He felt that the issue before the Council is the multiple prime approach and felt that it made sense to proceed with it and see how it will work.

Council Member Tate felt that the Council has to resolve that it will not redesign the library project half way through the multiple prime approach as it could add to the cost of the library if several changes are made through the process versus the other approach.

City Manager Tewes indicated that the multiple prime approach provides for scheduling options and does not specify a particular schedule. This approach allows for fast tracking. However, the risk of fast tracking makes it difficult and expensive to back track if it turns out that the Council wants to change the design halfway through the project.

Mayor Kennedy thanked the Friends of the Morgan Hill Library, AAUW and Library Commissioners for their hard work on the library project. He stated that the City is moving forward with the project, consistent with the resolution.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Chang absent, **Received** the report.*

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**Action:** *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Chang absent, **Authorized** City Staff to Proceed and not Wait to Proceed Until Results of State Library Bond Have Been Received.*

**Action:** *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** the Multiple-Prime Approach, and **Authorized** Staff to Prepare a Request for Qualification (RFQ) for Construction Management Services.*

## ***Redevelopment Agency and City Council Action***

### **OTHER BUSINESS:**

#### **13. FUNDING RECOMMENDATION AND DRAFT OF NEW STRATEGIC VISION FOR LIBRARY PROJECT FROM LIBRARY COMMISSION, AND FRIENDS OF THE LIBRARY RESOLUTION**

Recreation and Community Services Manager Spier informed the Agency/Council that the staff report would be presented by Library Commission Chair Chuck Dillmann as adopted by the Library Commission at their last Library Commission meeting.

Mayor/Chairman Kennedy opened the floor to public comment.

Chuck Dillmann, Chair of the Library Commission, stated that the City needs to be careful about its integration of the bid packages to make sure that it does not leave something out with the multiple prime model. He indicated that the Library Commission wrote a letter to the Council requesting the library project move forward and that the City not wait for the results of the library grant. He stated that the Library Commission is not recommending that the City wait for the longer term Senate Bill because there are several items that may cause bond funding not to take place. When the Council last dealt with the question of building the library, the Council identified a budget. There was approximately \$1.3 million that was not allocated to a project at the meeting. He stated that the Library Commission is strongly recommending that this money be held in reserve for the library. It is felt that with escalating construction/material costs, every dollar available should be applied to the library until such time that final construction costs have been determined and that it has been assured that the City will have an adequate library.

Mr. Dillmann addressed the vision document presented to the Council that would get the City to a new library. He stated that a subcommittee was put together, along with library staff and Council Member Tate, who worked on a comprehensive document that covers all aspects of the library even though it is not quantitative. Throughout the document, the Council will see that the library is guided by the principle of being flexible, a multi-use, and being readily expandable. He referred to page 3, chart 6, that states that the Library Commission needs to stay involved every step of the way; keeping the community engaged. He said that the Library Commission will take the community's input and forward

it to the Council. The Library Commission and the Friends of the Library are working on a Library Foundation in order to raise funds in an attempt to offset further reduction in services already being seen. They also want to help provide feedback into the architectural design of the library. He felt that it was key to make the library a place that everyone wants to go, making it a resource that helps develop the City's population. It is felt that the design should include ease of expansion. He stated that the Library Commission would like to have everyone in the public contribute to the funding of the operation and outfitting the library, indicating that the Friends of the Library has been making outstanding contributions toward this area. They are trying to develop citizen groups and business people who will participate. They would like to improve their ability to be the spokesperson or the conduit for the public to the Council. He stated that the Library Commission will continue to work on the issues and keep the Council apprized.

Council/Agency Member Tate stated that there was a lot of work conducted by the library staff independent of the subcommittee to come up with a great diagram. Library staff has a vision of an outdoor space, incorporating it as a reading room or a place that you can go and be within a library environment and yet have a feel of the outdoors. There was also a vision of what the budget cuts would be and that there may be ways to operate the library for extended hours, in some portions of the library, but not all portions. The library could be designed with adjacencies so that those portions of the library desired to be kept open a little longer could do so easily. He felt that good thought has been put into this effort and that great progress is being made.

No further comments were offered.

Council/Agency Member Tate stated that the Library Commission did a thorough job in looking at all the consequences of what is taking place with Proposition 14 and Senate Bill 1161 to come to the three recommendations before the Council: 1) the library project is to be the number one priority of construction projects; 2) the Council to provide a detailed construction for the new library before the end of the year. He felt that the Council's previous action indicates that it is moving forward with the library before learning the results of Proposition 14 in order to get the schedule in place. 3) Council to re look at funding for the library, leaving the option open to provide additional funding, if necessary. The letter further recommends that the City not wait for Proposition 1161 as there are so many unknowns associated with it. He felt that the Library Commission did a thorough job in analyzing all the pros and cons associated with the proposition at their last meeting. He stated his concurrence with all three recommendations.

Mayor/Chairman Kennedy referred to the Library Commission's second request that the Council place the construction of the new library as the highest priority of construction project. He noted that the City has three major projects to undertake: 1) indoor recreation center, 2) library, and 3) the multi sports complex. He inquired whether the City can proceed with all three projects at the same time and whether there was any reason to slow any of the projects down?

City Manager/Executive Director Tewes responded that staff is not recommending that the Council slow any of the projects down. He stated that the indoor recreation center is much further along than the library. He indicated that the indoor recreation center was delayed several times but is now on track and

ready to bid in the spring. He did not know whether the recommendation from the library commission suggests that the indoor recreation center should be slowed down. He said that this is a high priority for the City and that staff can complete the project based on the sequences of work that has been put into place. He noted that the outdoor sports complex is further behind as a master plan has not been adopted for this concept. The City will be bidding out the recreation center in the spring and will begin to work on the library, followed by the outdoor sports complex.

Mayor Pro Tempore/Vice-Chairman Sellers stated that he appreciated the presentation and all the work that went into it. Of the three major points addressed by Council/Agency Member Tate, two are straight forward. He felt that there is a strong need and desire to see the new library move forward and that it be assigned a high priority. He said that the Council has the right funding and that it is moving forward at the appropriate rate and as quickly as possible. In this case, it should not be contingent upon other priorities. He said that the reason the Council took extraordinary measures with the aquatics center was the fact that if it was not opened in May/June, the City would be losing significant funds. He noted that at the time, the City did not have an aquatics center and that it wanted to build something that did not exist. He agreed that the City needs to move as quickly as possible with the library and felt that the Council needs to be specific on a deliverable date that is reasonable. However, he wants to make sure that the Council is not making unreasonable demands on staff and expecting more than is reasonable to expect. He shares the goal of completing the new library once started.

Mayor Pro Tempore/Vice-chairman Sellers stated that the Council needs to find the resources to complete the library. He noted that the City has reserves that can be used when there are cost overruns that should be addressed. He felt that the Council needs to make a firm commitment to complete the project while having the flexibility to complete other projects. He did not believe that it made sense to allocate resources when it is not known whether a project will need it but that the Council should make the commitment that if additional funding is needed, it will find the resources to make sure that the project is completed. He stated that he likes the ease of expansion aspect. He felt that it was imperative that the City deals with the civic center site issue otherwise a future council will be in a situation that it wants to expand the library and there is an addition to city hall that will not allow expansion. He felt that this issue needs to be addressed; however, he did not believe that it should hold up or slow down the construction of the library. He was pleased to hear about increased public involvement, a possible funding source(s), and trying to identifying the resources necessary to maintain library operations. He feared that the City would construct a new library and that children would only be able to use it on limited days and not have access to a variety of books. He said that it would be important to identify the financial resources available in the community and tap into these resources. He stated that he and the Council are more than willing to do its part in identifying resources to keep the library open and have all the books/resources available. He stated that he was looking forward toward moving as quickly as possible.

Mayor/Chairman Kennedy noted that the third recommended action is that a construction plan be completed by December 31. He noted that the staff report does not define what the construction plan is. He inquired as to the reasonable date for staff to return with a schedule and a more accurate estimate.

City Manager/Executive Director Tewes noted that the Council has decided that the City is to use the “multiple prime approach.” He stated that the advantage of this model is the potential to save time and manage the costs to a greater degree. By changing the role of the construction management firm, the Council directed staff to find a construction management firm with builder experience. The first thing that the construction management firm will do, once on board, is to sit down with the architect, review the rough schematic designs and develop the construction schedule. He did not believe that coming up with an interim milestone for a construction schedule will lead to having a library built faster. He said that the City would build the library as fast it can and deliver the schedule to the Council once it is ready to be delivered. He stated that the significance of the multiple prime approach is the involvement upfront of the construction management builder.

Council/Agency Member Sellers inquired whether it made sense to include a clause in the contract or in the discussions that informs the construction management firm that the Council wants a library product from them similar to the schematic drawings. He inquired whether inclusion of the clause or statement would alleviate the concerns raised by the Council.

City Manager/Executive Director Tewes indicated that the Council would need to approve the contract with the construction management firm. It is staff’s belief that the City would have a construction management firm on board by the middle of December. He requested that the Council give staff the leeway to develop a schedule at the appropriate time with the commitment that staff would deliver the library as soon as possible.

Council/Agency Member Carr noted that with the prior action, the Council agreed to move forward with the multiple prime approach as soon as possible. He noted that staff in attendance this evening understands the importance of this project from the four Council members. He felt that this action would speed the process up. He felt that the Council has met the goal and may have gone beyond the goal/request. He was pleased to see what the Library Commission and the Friends of the Library will be focusing on, especially engaging the community as it is a great role for the Commission to be playing in having the discussions with community members. He felt that it was important to engage the community up front and work toward a sufficient, stable and adequate funding source. He appreciates the fact that the Library Commission and the Friends of the Morgan Hill Library are willing to take this role, expanding the role so that the City can provide the desired resources. He stated that every redevelopment dollar has been allocated to one project or another.

In response to Council/Agency Member Carr’s question, Council/Agency Member Tate indicated that the \$1.3 million being asked to be added to the library project is on top of the \$17 million already allocated.

Council/Agency Member Carr said that there is confusion attributed to the resolution presented by Carol O’Hare that requests that the Council/RDA “authorize the new library construction project at the \$17 million level to begin immediately.” He noted that this resolution does not include the \$1.3 million. He stated that he is now clear that the Library Commission is requesting \$1.3 million be allocated to the library while the Friends of the Library were not.

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Mayor/Chairman Kennedy opened the floor to public comment. No comments were offered.

Mayor/Chairman Kennedy noted that the Council already acted to keep the remaining \$1.28 million as a reserve and that after the first the year, when the Council conducts its goal setting session; it will prioritize use of these funds.

Council/Agency Member Tate indicated that the action was to receive the reports. He felt that the Council has already taken the actions being requested in spirit if not in an actual statement. He stated that the Council/Agency Board has not accepted the recommendation to allocate the additional funds as the Council/Agency Board has to have this discussion in its goal setting session.

Mayor Pro Tempore/Vice-chair Sellers said that it was his hope that the Council/Agency explained how the City would carry out the actions.

Mayor/Chairman Kennedy noted that it is being recommended that the Council/Redevelopment Agency receive the letter requesting various actions. He stated that the library is one of the highest priorities, if not the highest priority. He would support bringing back a construction plan as soon as possible; allowing staff to come up with a reasonable answer once the City has a construction manager on board. He felt that it was time to move forward with the construction of the library, as well as supporting the staffing necessary to operate the new library. He felt that funding for operations will be an upcoming issue that the City and the community needs to focus on.

**Action:**        *On a motion by Agency/Council Member Tate and seconded by Agency/Council Member Carr, the Agency Board/City Council, on a 4-0 vote with Agency/Council Member Chang absent, **Received** the Letter from the Library Commission.*

**Action:**        *On a motion by Agency/Council Member Tate and seconded by Agency/Council Member Carr, the Agency Board/City Council, on a 4-0 vote with Agency/Council Member Chang absent, **Received** the Presentation from the Library Commission on the Draft of a New Strategic Vision for the Library.*

**Action:**        *On a motion by Agency/Council Member Tate and seconded by Agency/Council Member Carr, the Agency Board/City Council, on a 4-0 vote with Agency/Council Member Chang absent, **Received** the Resolution from the Friends of the Morgan Hill Library Recommending that the Library Project Move Forward Immediately.*

## ***City Council Action***

### **OTHER BUSINESS: (Continued)**

#### **15.     DOWNTOWN AREA BUILDING ALLOTMENT**

Planning Manger Rowe presented the staff report, requesting direction from the Council on whether to supplement the Residential Development Control System (RDSC) or Measure C with building



allotments for the downtown area. Staff would also like to know whether the Council wants to advance the filing deadline for the competition to be held in 2005. He informed the Council that it has set aside 15 allocations specifically for the downtown for the first year and another 40 allocations in the second year. He indicated that there are three projects that will be applying for allocations in the first year. For any portion of the 40 allocations not used for projects applying for allotments in this year's competition, the City would allocate to a downtown competition to be held next year. In addition to the 55 units reserved for the downtown, there are 10 units allocated in each of the two years for small vertical mixed used projects for a total of 20 units. This results in the availability of 75 allocations in the downtown over the next two years. He indicated that the City received three projects on October 1 for vertical mixed use; two situated in the downtown and one project located in the downtown area but is considered as a 14 unit residential project. These 3 projects combined are requesting a total of 40 building allocations. Given that the City has 75 allocations and only 40 are being requested, he stated that there are ample allocations available for each of the projects if they receive a qualifying score in the evaluation process. With the completion of the general plan and zoning amendments for the downtown plan, it opens the door for other projects to apply for the competition to be held next year. He stated that based on conversations held with possible project proponents, staff anticipates 160-200 allocations being needed. He identified the set-asides for the upcoming RDCS allocation, including affordable set-asides. He indicated that Business Assistance and Housing Services Director Toy is aware of one project that could come in next year for affordable allocations. He stated that the Council could authorize a special affordable competition next year. He informed the Council that the 50 affordable set asides must be awarded no later than March 1, 2006. He indicated that the Council could shift the 50 affordable units to the downtown and make allocations available in subsequent years and/or take portions of the allocations that could be applied to any set asides. He stated that staff recommends that should the Council want to move allocations around from other set aside categories that the Council first consider the use of the affordable set asides as there are currently no applications for these allocations. Staff is not suggesting that the Council look at taking allocations from the other set asides because the City has a total of 24 RDCS applications that have been submitted, with 21 applications requesting a total of 904 units that includes a number of on going projects. He noted that there are only 135 units available to be granted in the open market rate competition and that this number would be reduced to 95 if you subtract the downtown allocations. As there were no applicants for the affordable set asides, there would be no objections from any current applicants for transferring these set asides. However, the City would need to take a look at how it would make up the loss of the affordable units.

City Manager Tewes stated that Measure C is a complicated system for allocating residential building units in Morgan Hill. He stated that staff has heard from members of the Council as well as members of the development community that the complexity and the limitations in the amount of Measure C units leads to uncertainty for developers who wish to build housing units in the downtown. This does not lead to enough critical mass to make a difference. If it is the Council's desire to increase the amount of housing in the downtown over a shorter period of time, the Council can: 1) reallocate units, or 2) authorize an additional year of competition in order to take advantage of some future year's allocation. To address the uncertainty issue, the Council may wish to consider whether or not it wishes to accelerate the application process. He stated that it would be helpful if the Council could provide staff with direction on how it feels about these major policy issues. Should the City try to accomplish more housing in the downtown faster? Does the Council wish to do so through a reallocation process and/or

go into a third year allocation? Should the Council wish to pursue this direction, the Council may wish to provide as much direction as possible this evening. Staff to return with specifics at a future date on how the Council may accomplish this. The Council may want to consider the extent to which it wishes to receive input from others, including the various commissions.

Council Member Tate felt that the Planning Commissioners are the experts on juggling the allocations and making sure that the City does not pull from the wrong pieces. He stated that he was leaning toward the recommendation that the Council pull more allocations into the RDCS process. He said that he has heard from developers that allotments need to be pulled in. He wanted to indicate to the Planning Commission how the Council is leaning and see what they can work out to make sure that the allocation distribution works out right.

Mayor Pro Tempore Sellers said that there has been some forward progress associated with the downtown and that there is a significant possibility that the City will see a regression in some of the areas where progress has been seen in the last few years. He felt that the City has given the downtown hope for success in the increase of residential development. The Council has repeatedly stated that it is prudent to increase residences in a core area like the downtown where transit and other resources exist and not spread residential development to the far edges of the community. For these two reasons, he felt that it was imperative that the Council does everything it can to get this critical mass. He felt that the 50 units made sense in the surface, pushing up the years. If the City does not have a critical mass in a fairly short period of time, he did not believe that the City would get anyone to jump in. He said that a concern the City saw, coming out of the process, was that there were some small projects that wanted to move forward. He said that it is the big projects that will make the difference the City wants to see developed in the downtown. He recommended that the Council reconsider the relationship between the downtown and the City's downtown goals and Measure C goals. He stated that there were significant problems that were alluded to between these two. He felt that it made sense to have lower densities on Cochrane and Watsonville Roads but that it does not make sense to decrease densities in the downtown. He supported referring this issue to the Planning Commission, indicating that these are additional questions that should be asked of the Commission, making it clear to them that the downtown area is a high priority in need of critical mass of residential units in short order or the City will be in trouble in the next few years.

Mayor Kennedy agreed that the City needs to proceed with the recommendations identified above and to move as quickly as possible to do so, reallocating the affordable units and move up the competition in order to get more downtown allocations. Doing so would allow the City to move forward with residential development in the downtown.

Council Member Carr said when Measure C was drafted, the Council created a downtown set aside in order to address the issues raised. If there are still some outstanding issues, by having a set aside and a special competition, the issues would be far easier to deal with than the old process of Measure P. He felt that it may just mean getting on track with the new process of Measure C. He felt that there were individuals who are willing to invest in the downtown and that this would be a great opportunity for the Council to demonstrate that it is making a commitment to the downtown and that it wants to provide the certainty that the City Manager addressed. He felt that staff has heard a lot of support from the Council

about moving allocations forward and doing whatever is possible to provide more certainty in the process for project proponents.

Mayor Kennedy opened the floor to public comment. No comments were offered.

City Manager Tewes inquired whether it was the direction of the Council that staff works with the Planning Commission.

Mayor Kennedy inquired whether the Council wants to provide strong direction to the Planning Commission that this is the direction the Council wants to take.

Council Member Carr would support referring this item to the Planning Commission to work out the details. However, he did not want the Planning Commission to return to the Council and suggest what Mayor Kennedy stated should not happen.

**Action:** *By consensus, the Council referred this matter to the Planning Commission; providing the above stated direction (Council Member Chang absent).*

## **16. AQUATICS CENTER OPERATING BUDGET AND SCHEDULE**

Recreation and Community Services Manager Spier presented the staff report, indicating that the aquatics center was opened on June 12. By many accounts, it was a successful first initial operating season. She stated that the aquatics center exceeded the estimated attendance records for each day. She indicated that staff found that the City was not prepared or had the training that it would have liked for the opening of the new aquatics center complex and making it available to the community. She addressed the revenues and expenditures associated with the aquatics center. She informed the Council that swim teams were asked to pay \$600 per lane for swim team practice beginning in September and that they have accommodated this request. Staff has met with the swim teams and advised that in order for the City to meet projections for the remainder of the year, the City would be requiring \$1,000 per lane for the November through February period, indicating that the swim teams have agreed to this rate, generating \$13,000 per month for the 13 lanes. She indicated that in order to be ready in March 2005, the City would have to gear up its staff hiring and programming next March. She stated that staff is recommending that the City retain three full time staff members during this lean time period who will spend time marketing the aquatics facility and begin programming; looking at what worked and did not work during the swim season. Also, to be reviewed are capital items that could increase the aquatics center revenue generations. She stated that in order to reach the assumptions for revenue generation, staff is requesting that the Council allow them to be aggressive and do some out of the box thinking. She identified the 12 recommended action items: 1) keep aquatics center operations open during the off season from November through February; 2) increase daily entrance fee by \$2; 3) increase group swim lessons by \$10 and a \$5 increase for private lessons; 4) increase water polo fee to \$40/hour year round; 5) swim team fees to be increased \$1,000 per month for four months; 6) provide a one week notice of closure if the revenue expectations are not met; 7) staff to return to the Council with a financial progress report in three months; 8) the aquatics supervisor to work on a part time staffing plan in order to have a better control of costs; 9) plan a list of special events; 10) monitor budget goals to determine whether a

full time custodian can be added to the budget prior to the next operating season; 11) tracking items over the next four months; and 12) maintain the staffing level at a minimum of three over the next four months.

Mayor Kennedy noted that there are some things that would save costs under the operations side. He noted that staff has not included funding for vending machines.

Ms. Spier stated that the recreation supervisor is working on the cost for vending machines and that staff would return to the Council when it has a full report on the capital items at a future date.

Council Member Tate said that he did not know how much of the aquatics center usage was by non residents. By increasing the fees by \$2, the difference from non residential would go from 20% down to 14% for an adult. He stated that he would like to see the increase to non residential usage increase, seeing a wider differential in fees for non residential users in order to offset the increase for Morgan Hill residents. He felt that the trend of percentage reduction in the differential for non residential users was the wrong approach. He noted that staff did not identify the impacts to individuals that pay for week or season passes. He inquired whether the increased rates were corresponding for these passes.

Ms. Spier responded that staff has not looked at the whole spectrum of fees and that this is one of the items that staff will be analyzing during the off season. She indicated that the greatest impact was in the daily fee and that this is the one piece that the City needed to make a change as soon as possible, especially in the off season. She stated that individuals tend to buy passes during the regular season as there is a finite time to it. Individuals are not busying passes in the off season because it is uncertain from week to week whether the aquatics center would remain open. She stated that staff could return to the Council with the review of the various passes. She indicated that a large majority of the aquatics center users were community users.

Mayor Pro Tempore Sellers stated that he supported staff's recommended actions to keep the aquatics center opened year round as long as it is fiscally prudent to do so. He felt that the inclusion of vending machines would be helpful. He recommended that thought be given to the concession stand and not limit the center in this consideration. He recommended creativity in resolving these issue. He said that there were issues associated with getting through the gate/passes; noting that a line formed easily. Another issue was checking bags. He felt that the City dealt with all the policies as best it could this year and that he would like them reconsidered as they are more than just customer service issues. He felt that the City may want to be more liberal with its food allowances by allowing water to be brought into the facility. He felt that more latitude should be given to parents relating to the swim policy associated with three year olds for those who are potty trained as several individuals were offended by City policies. He felt that the onus should be placed on parents. He recommended that the City look at other policies as the pools are developed.

Mayor Kennedy indicated that at the aquatics subcommittee meeting, it was pointed out that bags and belonging inspections uncovered, in a couple of occasions, several knives and other items that in themselves probably make inspections a worthwhile thing to do.

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Mayor Pro Tempore Sellers recommended the City figure out a process such as better communication of policies.

Mayor Kennedy thanked city staff for an outstanding job and making the aquatics center a reality and an overwhelming successful aquatics season.

Council Member Carr stated that as a member of the aquatics subcommittee, he has had an opportunity to go through some of the information in detail. He stated that he was pleased that the City has found a way to keep the pools available throughout the year. He was pleased that the Aquatics Foundation was willing to partner with the City and to help make it work. He felt that there were a couple of issues that the Council needs to continue to talk about; one being the pricing strategy. He supported the continuation of discussions associated with capital outlays that ultimate will be greater revenue generators/cost savings for the City, especially when the Council conducts its goal setting retreat to discuss where the City will be spending RDA dollars and what is remaining in RDA dollars. He wanted to make sure that this is part of that discussion/process. He felt that staff has done a great job with the operation of the aquatics center and supported the recommendations identified by staff.

Mayor Pro Tempore Sellers noted that staff is suggesting that the aquatics center would be closing down with a one week notice should it not meet revenues. He felt that staff should do everything it can to return to the Council before closing down the facility.

Mayor Kennedy opened the floor to public comment.

John Rick stated that Aquatics Foundation supports staff's proposal. He said that he spent a lot of time with staff looking over the assumptions and revenue projections, indicating that they would be challenging for the next five to six months but that they are achievable. It is the Foundations belief that everyone wants the aquatics center to succeed. In order for the aquatics center to succeed, he felt that the Council has to give it the opportunity to succeed. He stated that the Foundation will continue to provide whatever operating subsidy it can. He noted that as the aquatics center got closer to completion, a lot of the necessary competition equipment was value engineered out. He indicated that the Foundation has already spent over \$11,000 purchasing items such as starting blocks, back stroke flags, water polo swimming timing consoles, storage sheds, etc. He stated that a large event is scheduled for the end of March called "Far Westerns" to be hosted at the aquatics center. He said that there would be 1,000 to 1,500 of the fastest age group swimmers from throughout the western United States at this four day event. One way or another, the rest of the equipment needs to be purchased. He stated that the Foundation could purchase the items but that this would result in less money being applied toward operations. He indicated that he would be asking staff to return to see if there is a way to free up some capital monies to fund the expenditures for this event.

No further comments were offered.

Mayor Kennedy stated his support of spending money that will increase revenues.

Council Member Carr stated that he would like to move forward this evening with staff recommend actions, but requested that staff make sure that the percentage difference is not decreasing between residential and non residential users. He recommended that this return to the Council at a future date.

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** the Proposed Year-Round Operating Schedule for the Aquatics Center.*

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member absent, **Accepted** the Projected Budget for the Remainder of Fiscal Year 2004-2005.*

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Council Member Chang absent, **Directed** Staff to Return to Council in Three Months with a Progress Report Regarding Operational Budget Recovery.*

**2. CONDUCT OF SPECIAL RUNOFF ELECTION IN THE EVENT OF A TIE VOTE(S) – Resolution No. 5851**

City Attorney Leichter indicated that the resolution before the Council calls for a special runoff election in case of a tie vote. She indicated that the resolution would be modified to clarify that a special runoff election would be held should a tie vote result where there are more than two candidates running for a particular elected office. She stated that she would insert this clarifying language in the appropriate places in the “Whereas” clause and in Section 1 of the resolution.

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Carr, the City Council, on a 3-1 vote with Council Member Tate voting no and Council Member Chang absent, **Adopted** Resolution No. 5851, Providing for the Conduct of a Special Runoff Election for Elective Offices in the Event of a Tie Vote at any Municipal Election, as amended by the City Attorney.*

## ***Redevelopment Agency and City Council Action***

### **CLOSED SESSIONS:**

Agency Counsel/City Attorney Leichter announced the below listed closed session items, indicating that one of the closed session items can be deferred until next week. However, one item would need to be discussed this evening.

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	2

**OPPORTUNITY FOR PUBLIC COMMENT**

Chairman/Mayor Kennedy opened the Closed Session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Chairman/Mayor adjourned the meeting to Closed Session at 11:00 p.m.

**RECONVENE**

Chairman/Mayor reconvened the meeting at 11:15 p.m.

**CLOSED SESSION ANNOUNCEMENT**

Chair/Mayor Kennedy announced that no reportable action was taken in closed session.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Chairman/Mayor Kennedy adjourned the meeting at 11:16 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, AGENCY SECRETARY/CITY CLERK**